

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	MM Docket No. 99-25
Creation of a Low)	
Power Radio Service)	RM-9208
)	RM-9242

Comments of the Low Power Radio Coalition

Michael M. Bracy
Executive Director
Low Power Radio Coalition
601 13TH St. NW
Suite 900 South
Washington, DC 20005

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Overview

For the past eight months, the Low Power Radio Coalition has performed two primary functions concerning Mass Media bureau docket 99-25. First, we have worked to educate potential beneficiaries of the FCC's LPFM proposal about the public process. Second, we have taken that information from across the country to educate decision-makers in Washington about the realities of why these stations are critically important.

In this proceeding, several themes have become abundantly clear:

- Radio is a very special communications medium because of its near-universal penetration. Since spectrum belongs to Americans, not to broadcasters, it is the obligation of the FCC to determine how this critical natural resource can be best utilized for the American public.
- Thousands of Americans are asking the FCC to reinstate low power FM licenses for use as a communications tool. Stations would be operated by organizations including local governments, educational institutions and community groups.
- While LPFM carries broad support, opposition seems limited to existing broadcasters who have economic reasons to voice concern. While their

technical concerns need to be addressed, any notion that the FCC has an obligation to protect the interests of industry over the American public must be dismissed out of hand.

It's Not a Question of "If" it's a Question of "How" and "How Many"

Kevin McGaughey is the principal of Brookland High School in Brookland, Arkansas. Brookland is a small town without local radio service, and Mr. McGaughey would like to start a FM radio station in his school to serve his local community and be an educational tool for his students. But under current FCC regulations, it is difficult if not impossible for an educator like Mr. McGaughey to establish a low-cost, low-power FM radio station.

The Low Power Radio Coalition introduces this as a starting point: there is no possible justification for a federal regulatory agency to stand in the way of non-commercial use of the public's spectrum in rural communities that are currently without local radio service. Therefore, the issue is not whether or not to establish these stations. Rather, the FCC's clear obligation is deciding how many of these stations should be allowed, and how these licenses should be distributed and managed.

Our Spectrum=Their Profits?

The Low Power Radio Coalition believes the record in this docket clearly demonstrates the fundamental validity of hopeful license-holders' proposed

applications. It should be accepted without debate that existing broadcasters are unable to create programming to meet all the disparate needs of the American public. Rather, existing broadcasters attempt to fill programming niches that either lead to profit (for commercial broadcasters) or meet a public need while fulfilling economic obligations (in the non-commercial realm). By definition, more stations will create more programming, and the FCC has no justification for ignoring citizens' request to make use of our spectrum.

It should be noted that even full implementation of a robust Low Power FM service will never come close to addressing all potential programming niches – radio spectrum is simply too limited to ever meet every need. But in no way is that an argument against LPFM – rather it simply reconfirms the need for the greatest possible access.

Technology: Innovation Will Follow Market Opportunities

Preliminary signal interference tests seem to indicate that LPFM stations can be implemented with very limited disturbance to consumers' ability to listen to existing stations. We welcome technical studies from the National Association of Broadcasters, the Consumer Electronics Manufacturers Association, and National Public Radio – not to mention the FCC's own studies. We must remember, however, three primary facts:

- There is not a thriving, legal market for LPFM transmitters – so why would industry focus on creating technical innovations? The FCC last granted LPFM licenses 20 years ago – before the PC, satellite radio, MP3 and other technological innovations. We believe that creation of a legal market for LPFM transmitters will foster innovative solutions to interference questions.
- While limited signal interference should be taken into consideration by the FCC, it must be balanced with the overwhelming public benefits of Low Power FM. Broadcasters assert that certain inexpensive radio receivers will have difficulty in LPFM signal areas, creating a headache for consumers. Broadcasters were less concerned about headaches for consumers, however, when they pushed for digital television. In fact, because digital television was deemed to be in the public's interest consumers will eventually be forced to replace their analog televisions with more expensive digital sets. While we question whether consumers will be required to upgrade receivers in areas receiving Low Power FM signals, there is clear precedent for the FCC to balance advances in technology with greater public interest. And, fundamentally, the ability to build out a working Low Power FM studio for relatively little money represents an advance both in technology in the way citizens think about radio.

- Similarly, the Low Power Radio Coalition believes that the FCC should ensure that any transition to digital broadcasting is developed around LPFM stations, not the other way around.

What Will These Stations Look Like?

The Low Power Radio Coalition has identified some key constituencies for Low Power FM radio. Given limitations on radio spectrum, broadcasting is not a right, it is a privilege. The FCC needs to ensure that these license-holders are held to high standards similar to the ones established for full-power broadcasters. The Low Power Radio Coalition would like to see the Commission establish an appropriate screening formula to ensure organizations or individuals who want to apply for a license have the technical and financial resources critical to a radio station's long-term success. While there will certainly be some individuals willing to underwrite LPFM stations (for example, Microsoft millionaires) we believe most applicants will fall under the following categories:

Local Government

Increasingly, local governments find it critically important to turn to every communications tool available to keep the public informed about programs and services. In the past ten years, this has included substantial investment in Public, Education and Government (PEG) cable television channels and the Internet. Since radio has much greater

penetration than either cable television or the Internet, many local governments will pursue Low Power FM licenses. These stations could increase public awareness of programs and services, make local officials accountable to the public, and generally facilitate civil discourse. In times of excess heat or cold, they can broadcast very local targeting information on how to receive government assistance. The Low Power Radio Coalition recommends that the FCC develop a system to allow local governments to hold licenses without going through a competitive process.

Educational Institutions

Across the country, hundreds of radio stations operated by colleges, universities and high schools both serve local communities and provide incomparable educational and job-training opportunities for students. Simply put, Low Power Radio will enhance radio's potential as an educational tool. In the twenty years since the FCC last issued low power educational licenses, our culture has transformed from content "consumers" to content "producers." Today's student is more inclined to search for outlets for creative expression. The FCC's twenty-year freeze on these licenses is simply out of step with the times.

Currently, approximately 140 colleges and universities are so committed to radio that they operate radio stations without the ability to broadcast. Instead they send signals via phone lines, cable television or

the Internet because of lack of spectrum or unrealistic costs of operating a full power station. It is important that these stations get on the air. Finally, these student stations must not be punished if their administration operates a National Public Radio license. Colleges and Universities must not be placed in the trap of choosing between an established public radio station or a platform for student expression.

Community Groups

One of the most exciting opportunities made possible by LPFM is as a communications tool for civic organizations, community groups and churches. By pooling resources to operate stations, programming will include social service agencies educating the public about how to access programs. Civic groups will foster political discourse on truly local issues. Arts organizations will promote local music, or program music that is not deemed “popular” enough to appear on commercial radio. And marginalized ethnic groups will use Low Power FM to broadcast information in native languages.

Critics complain that there will not be the economic resources to make these applications a reality. The simple truth is that by scaling down the cost of radio, LPFM lowers the economic bar dramatically. LPFM does not guarantee that this type of programming will appear everywhere,

but it certainly makes it possible. Clearly, these organizations deserve a shot at making their vision a reality.

Commercial Vs. Non-Commercial

The Low Power Radio Coalition believes there are very strong arguments made on both sides of the commercial – non-commercial debate. In general, our philosophy is that non-commercial licenses are a must. We also believe that commercial licenses should be granted in communities that currently do not have existing stations. We do believe there is some potential truth to the argument that consumers in small markets would not benefit if smaller, independent commercial stations are threatened by unfair competition. The FCC needs to take this argument into account.

We do believe it must be made clear that opportunity does not have to equal ownership of a commercial station. Rather, active participation in a non-commercial station could have tremendous benefits, whether as an educational tool in a high school or an opportunity to manage an organization, program a station, or maintain a studio. LPFM opponents incorrectly equate the FCC's inability to direct commercial licenses to minorities or women as an impediment to the goal of increased access and opportunity. This analysis is obviously simplistic.

Impact on the Independent Music Industry

One critical reason for radio's continued success as a communications medium is its role as the hub of the music industry. Radio is where consumers listen for new sounds – or old favorites. For many in the music industry, economic success is linked to an ability to be heard on the radio. Whatever the genre, however, there is a tremendous disconnect between music that is regarded by critics as “good” and music that is played on the radio. Instead, music is selected based on market assumptions of what is “popular” – more often than not a self-fulfilling prophecy.

The sad truth is that the independent music industry is simply not present on today's commercial radio. This lack of exposure influences the buying decisions of many consumers, impacting a whole chain of small businesses including artists, record labels, distributors, retailers and performers.

Commercial radio's national consolidation of playlists has a clear impact on consumers, who complain that commercial radio does not reflect the music they would like to hear. By definition, commercial radio puts a premium on what is “popular” rather than what is considered “good.” In doing so, commercial radio harms consumers by limiting access to music that enhances our cultural and artistic heritage. For example, important, popular musical genres like classical, folk, jazz, zydeco, reggae, bluegrass, punk, and blues are rarely found on commercial radio.

Low Power Radio may not be a panacea, but it will help. While the Internet is years away from being a viable mass media distribution tool, radio is near-universal today. As demonstrated by the playlists of college radio and other non-commercial stations, there are still programmers willing to break beyond the rigid market-oriented programming philosophies seen in commercial radio. Again, by lowering the costs of broadcasting, these stations will make it **possible** to program music based on love of music, not love of money.

The Arguments Against LPFM

The Low Power Radio Coalition is eager to utilize the reply comments process to address specific objections raised by opponents of low power FM. To date, our coalition has heard several themes articulated by broadcasters:

1. LPFM will create unacceptable signal interference.
2. LPFM will complicate the transition to digital broadcasting.
3. LPFM will put some independent broadcasters out of business by undercutting the advertising market.
4. LPFM is a redundant service because existing broadcasters already meet consumers' needs. Instead, Internet radio is a more appropriate outlet for niche programming.
5. The FCC does not have the resources to administer and monitor LPFM stations.

6. LPFM will not meet the FCC's goals of increasing diversity and opportunity in the radio industry.
7. Because there is less room for LPFM stations in urban markets the implementing the service is not worth the FCC's effort.

These arguments range from desperate to silly. Indeed, the FCC needs to implement LPFM in a way that benefits consumers – including thoughtful technical specifications and licensing protocols. If the broadcasting industry puts forth the argument that consumers are content with the programming choices the commercial broadcasters currently offer up, the Low Power Radio Coalition looks forward to raising that question to consumers. In fact, the Low Power Radio Coalition even questions the assumption that consumers, if given the choice, would prefer the CD-quality sound and crisp reception promised by IBOC to more programming choices.

There are many ways that technology will be an additional tool for the FCC to leverage in monitoring LPFM. LPFM stations, for example, could be required to stream audio via an Intranet to ensure that the FCC could monitor content in the event of consumer complaints about obscene content. Few people, however, would argue that LPFM stations can match the salacious nature of morning drive-time programming offered by existing broadcasters in many markets.

The broadcasting industry is missing the boat on the Low Power FM issue. These stations can provide a training ground for management and talent. They can be a testing ground for new music. They can provide tangible service for communities. They can breathe life into FM radio again.

Conclusion: LPFM is a Small but Necessary Step

The FCC has a clear obligation to manage the airwaves in a way that benefits the public, not the bottom line of broadcasters. The record clearly demonstrates that citizens have a variety of important ideas for utilizing FM spectrum. Citizens will benefit from better access to local information, while music consumers will benefit from exposure to content currently blocked from the airwaves. In fact, the record clearly states that with thoughtful implementation of Low Power FM all Americans will benefit – except for the broadcasters who may lose money on the margins.

Spectrum belongs to citizens, not to broadcasters. There is no rationale for the FCC to not listen to the public on this very important proceeding.